

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2019-230-E

IN RE

	) Enrique McMilion, Jr.,
	) Complainant/Petitioner,
	)
Enrique McMilion, Jr.,	) Plaintiff's motion in Opposition to Defendant's Motion to
	) Dismiss
Complainant/Petitioner,	)
	)
v.	)
	)
Duke Energy Carolinas, LLC,	)
Defendant/Respondent.	

Pursuant to S.C. Code Ann. § 58-27-1940 S.C. Code Ann. Regs. 103-829, 103-300, 103-301, 103-320, 103-321, 103-341, 103-829 and applicable South Carolina law. Plaintiff, Enrique McMilion Jr., hereby submits his motion in opposition to Defendants' Motion to Dismiss the Complaint with Prejudice. And hereby moves the Public Service Commission of South Carolina ("Commission") to dismiss the defendants Duke Energy Carolinas, LLC ("DEC" or the "Company") motion to dismiss on the merits because the Complaint does adequately allege a violation of a Commission-jurisdictional statute or regulation, and a hearing in this case is necessary for the protection of substantial rights, and therefore S.C. Code Ann. § 58-27-1990 does not apply. In support of its motion, I Enrique McMilion Jr. complainant/ petitioner shows the following:

## 1 BACKGROUND

2  
3 Duke Energy Carolinas, LLC ("DEC" or the "Company") have stated in their motion to  
4 dismiss that I have requested the installation of an analog meter, this is factually  
5 incorrect. The same electromechanical analog meter on my home is the same one that has  
6 been in use since I agreed to the service contract in the year 2013. This is very  
7 important because if a digital smart meter or a digital manual read meter is one my  
8 home it would show that consent was implied. I have in fact never consented to a  
9 digital meter of any kind. Duke Energy Carolinas, LLC / defendant has tried on several  
10 occasions to get me to consent to a digital smart meter or a digital manual read  
11 meter, I have refused consent on the grounds that our original contract is not in  
12 dispute, privacy concerns, and a lack of full disclosure to the terms and conditions  
13 to a new or modified contract. When I verbally agreed to the service contract  
14 agreement with the electromechanical analog meter I knew the terms and conditions, and  
15 understood an invasion of privacy with this meter was not possible. I have attempted  
16 in vain to obtain in writing the terms and conditions with full disclosure pertaining  
17 to the digital smart meter or a digital manual read meter and have both parties sign  
18 the agreement, as a party to this contract I reserve this right. The reason being for  
19 this is the digital smart meter or a digital manual read meter have vastly different  
20 capabilities than an electromechanical analog meter. One of the capabilities of  
21 digital meters that I am aware of is that they can perform a SEARCH/ READING several  
22 times a minute, hundreds of times per hour, and thousands of times per day, a clear  
23 violation of S.C.Code 103-321. Which states Unless extenuating circumstances prevent,  
24 meters shall be read and bills rendered on a monthly basis not less than twenty-eight  
25 days nor more than thirty-four days. In the following argument I will show how Duke  
26 Energy Carolinas, LLC actions using a digital smart meter violate rule 103-321, and  
27 violate the fundamental and substantive right to privacy in the home for myself and my  
28

1 fellow South Carolina citizens. And how the manual read meter contract is a deceptive  
2 misleading.

3  
4 ARGUMENT

5 I, Enrique McMillion Jr. complainant/petitioner request the defendants motion to  
6 dismiss be dismissed with this motion in opposition and that the defendants  
7 applicability of S.C. Code Ann. § 58-27-1990, fails on the merits because a hearing is  
8 necessary in the public interest or for the protection of substantial fundamental  
9 rights and a clear violation of S.C Code 103-321. A hearing is necessary to expose  
10 these violations to the hearing's examiner, the South Carolina Public Service  
11 Commissioners and the Citizens of South Carolina.

12 Digital smart meters are capable of performing multiple readings/searches per  
13 minute, hundreds of readings/searches per hour ,and thousands of readings/searches per  
14 day. And have this data sent wirelessly to the defendant, from this Duke Energy  
15 Carolinas, LLC ("DEC" or the "Company") can glean with a high degree of accuracy  
16 activities going on within the home. Each electrical device has its own particular  
17 electrical signature, for example the power signature from a microwave is different  
18 than the signature of a conventional oven and Duke Energy Carolinas, LLC can deduce  
19 how a family chooses to cook their dinner that evening. Analyzing the data of when  
20 these devices are in use such as a coffee maker, a television, a security system, a  
21 clear picture starts to emerge to the patterns and activities of daily life. These  
22 digital smart meters enable "DEC" to collect this data every hour of every day with no  
23 end in sight. This is nothing short of surveillance. Surveillance is a function  
24 traditionally reserved for government, with very strict rules, limitations, and  
25 criteria that must be met before surveillance can begin. A private for profit multi  
26 billion dollar monopoly paid for in part by the Federal Government to implement the  
27 advanced metering infrastructure to accomplish this surveillance, can be sued in state  
28



1 and federal court as a "STATE ACTOR" Unless they have consent of the home owner. It is  
2 my belief that Duke Energy Carolinas, LLC has presented all of the so-called benefits  
3 of digital smart meters to the South Carolina Public Service commission and the  
4 citizens of South Carolina and has omitted the outrageous invasion of privacy and  
5 violations of rule 103-321. Duke Energy Carolinas, LLC has stated in their motion to  
6 dismiss page 4 paragraph 2 "It is true that the Company's smart meters transmit  
7 electricity usage data to the Company on a more frequent basis than once monthly  
8 (i.e., "interval data")." This is clear self-admitted evidence by the defendant as to  
9 the violations of rule 103-321. The defendant has also stated "The Company does not  
10 believe that the intent of Regulation 321 is to prevent the transmission of  
11 electricity usage data on a more frequent basis than every twenty-eight days." The  
12 defendants belief as to the intent of rule 103-321 is immaterial and irrelevant, what  
13 Duke Energy Carolinas, LLC must do is follow rule 103-321. For those South Carolina  
14 families that have accepted digital smart meters absent full disclosure regarding the  
15 invasion of privacy or have consented due to threats of power shut off, renders the  
16 contract void and unbinding. This means that every reading/search performed by the  
17 defendant is a violation of rule 103-321, it is not hyperbole to calculate Duke Energy  
18 Carolinas, LLC has broken rule 103-321 tens of millions of times.

19 Regarding the digital manual read meter opt out option. This contract is a deceptive  
20 misleading. I consider privacy in the home priceless. But agreeing to this contract  
21 would be unfair for the reasons listed: 1) Why pay for a digital meter if the  
22 electromechanical meter would be read manually as well. 2) I still require full  
23 disclosure to the terms and conditions to the contract in writing which seems Duke  
24 Energy Carolinas, LLC is unable or unwilling to provide. 3) and most importantly  
25 attached to this motion will be one of the terms and conditions that the defendant has  
26 provided on their website, that states after one year either party can terminate the  
27 contract with 30 days written notice, for any reason or no reason whatsoever. Since my  
28 home has been designed with electricity in mind, any power shut off would render my

1 home unfit for habitation. Agreeing to such an absurd proposal would cause my family  
2 to lose our home and our farm. I do not believe any reasonable man would accept these  
3 terms and conditions.

4  
5 CONCLUSION

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7 The complaint filed in this proceeding does adequately allege violation of 103-321  
8 a Commission-jurisdictional statute or regulation. The defendants applicability of  
9 S.C. Code Ann. § 58-27-1990, fails on the merits because a hearing is necessary in the  
10 public interest or for the protection of substantial fundamental rights of privacy and  
11 a clear violation of S.C Code 103-321. A hearing is necessary to expose these  
12 violations to the hearing's examiner, the South Carolina Public Service Commissioners  
13 and the Citizens of South Carolina. The South Carolina Public Service Commission has  
14 jurisdiction over Duke Energy Carolinas, LLC. For these reasons set forth herein I  
15 Enrique McMilion Jr. plaintiff/ complainant respectfully request that the The South  
16 Carolina Public Service Commission and hearings examiner deny defendants motion to  
17 dismiss with prejudice.

18  
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23 Names of attorney(s)  
24  
25  
26  
27  
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Smart Meter (/our-company/about-

us/smart-grid/smart-meter)

charges below will be added to your Duke Energy bill:

- A \$150 initial setup fee (per account)
- An \$11.75 monthly charge (per account)

## Are there early termination fees in the MRM program?

The original term of this contract is one year. Thereafter, contract may be terminated by either party with 30 days written notice. The company reserves the right to terminate the customer's contract under this rider at any time upon notice to the customer for violation of any of the terms or conditions of the applicable schedule of

## What are the eligibility requirements?